

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA AND THE
STATES OF ALASKA, CALIFORNIA,
COLORADO, CONNECTICUT,
DELAWARE, FLORIDA, GEORGIA,
HAWAII, ILLINOIS, INDIANA, IOWA,
LOUISIANA, MARYLAND,
MASSACHUSETTS, MICHIGAN,
MINNESOTA, MONTANA, NEVADA,
NEW HAMPSHIRE, NEW JERSEY, NEW
MEXICO, NEW YORK, NORTH
CAROLINA, OKLAHOMA, RHODE
ISLAND, TENNESSEE, TEXAS,
VERMONT, VIRGINIA, AND
WASHINGTON, AND THE DISTRICT OF
COLUMBIA EX REL. TERENCE
SULLIVAN,

PLAINTIFF-RELATOR,

v.

MEDITECH, LLC, BIOCONFIRM
LABORATORIES, LLC, AND JOHN DOE
ENTITIES 1-10,

DEFENDANTS.

Civil Action No.

1:19-cv-2612-JPB

**FILED *EX PARTE* and
UNDER SEAL**

**NOTICE OF THE UNITED STATES THAT
IT IS NOT INTERVENING AT THIS TIME**

In its Order, dated August 3, 2021, the Court indicated that the Government must make its intervention decision on or before September 17, 2021, and that no further extensions of time would be granted. On September 7, 2021, the Government filed an application for a 30-day extension of the intervention

deadline, requesting that the attorneys assigned to this matter be permitted a brief extension to obtain the requisite recommendations and approvals from the appropriate government officials in order to make an intervention election. On September 28, 2021, the Court granted the Government's request and ordered that the intervention deadline be extended through October 18, 2021.

At present, the Government's investigation has not been completed and, as such, the United States is not able to decide, as of the Court's deadline, whether to proceed with the action. Accordingly, the United States hereby notifies the Court that it is not intervening at this time.

Although the United States is not intervening at this time, it respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." Id. Therefore, the United States requests that, should either the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon it; the United States also

requests that orders issued by the Court be sent to the United States' counsel. The United States reserves its right to order any deposition transcripts, to intervene in this action, for good cause, at a later date, and to seek the dismissal of the relator's action or claim. The United States also requests that it be served with all notices of appeal.

Finally, the United States requests that the relator's Complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

This 18th day of October, 2021.

Respectfully submitted,

BRIAN M. BOYNTON
ACTING ASSISTANT ATTORNEY
GENERAL

KURT R. ERSKINE
ACTING UNITED STATES
ATTORNEY

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ORDER

The United States having not intervened in this action pursuant to the False
Claims Act, 31 U.S.C. § 3730(b)(4), the Court rules as follows:

IT IS ORDERED that,

1. the complaint be unsealed and served upon the defendant by the relator;
2. all other contents of the Court's file in this action remain under seal and not be made public or served upon the defendant, except for this Order and the Notice Of The United States That It Is Not Intervening At This Time, which the relator will serve upon the defendant only after service of the complaint;
3. the seal be lifted as to all other matters occurring in this action after the date of this Order;
4. the parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time;
5. the parties shall serve all notices of appeal upon the United States;
6. all orders of this Court will be sent to the United States; and that
7. should the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States before ruling or granting its approval.

IT IS SO ORDERED,

This ____ day of _____, 2021.

JUDGE J.P. BOULEE
UNITED STATES DISTRICT COURT

Presented by:

/s/ Mellori E. Lumpkin-Dawson
Mellori E. Lumpkin-Dawson
Assistant U.S. Attorney

CERTIFICATE OF COMPLIANCE

I hereby certify, pursuant to LR 7.1.D., NDGa., that the foregoing document was prepared in 13-point Book Antiqua font.

This 18th day of October, 2021.

/s/ Mellori E. Lumpkin-Dawson
Mellori E. Lumpkin-Dawson
Assistant United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that foregoing document, was served by emailing copies
addressed to:

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This 18th day of October, 2021.

/s/ Mellori E. Lumpkin-Dawson
Mellori E. Lumpkin-Dawson
Assistant United States Attorney